

JOINT RESOLUTION ON ETHICS
COMPLAINT PROCEDURES

2010 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill modifies the joint legislative rules that govern the receipt and review of an ethics complaint against a legislator.

Highlighted Provisions:

This resolution:

- ▶ establishes an Independent Legislative Ethics Commission;
- ▶ establishes membership for the commission;
- ▶ provides qualifications for membership;
- ▶ provides term periods and replacement procedures for a member of the commission;
- ▶ provides for the resignation, removal, or recusal of a member of the commission;
- ▶ provides procedures for calling a meeting of the commission;
- ▶ provides for an independent staff to assist the commission;
- ▶ specifies the grounds upon which an ethics complaint may be filed against a legislator;
- ▶ provides certain time and jurisdiction limitations on filing an ethics complaint;
- ▶ establishes a general outline of hearing procedures for reviewing an ethics complaint;
- ▶ provides the chair of the commission or an ethics committee with the authority to direct proceedings and make rulings;
- ▶ permits a majority of the commission or committee to overrule certain decisions of the chair;
- ▶ provides subpoena powers to the commission and committees;
- ▶ provides procedures for issuing a subpoena;
- ▶ defines actions that constitute contempt of the Legislature in relation to procedures established under these rules;

- 32 ▶ provides procedures for enforcing findings of contempt of the Legislature;
- 33 ▶ provides general procedures for the examination of a witness;
- 34 ▶ establishes permitted and restricted communications by commission and committee
- 35 members during the period that an ethics complaint is under review;
- 36 ▶ establishes rules that govern the payment of an attorney fees and costs;
- 37 ▶ establishes conduct requirements for an attorney appearing before the commission
- 38 or a committee;
- 39 ▶ provides procedures for filing an ethics complaint, including:
 - 40 • who may file a complaint;
 - 41 • restrictions on dates for filing a complaint;
 - 42 • the form of the complaint; and
 - 43 • information required to be included in the complaint;
- 44 ▶ prohibits any person from disclosing the existence or contents of an ethics
- 45 complaint while the commission is reviewing the complaint;
- 46 ▶ requires a complaint to be filed with the Senate or House Ethics Committee;
- 47 ▶ changes the title of an ethics committee cochair to vice chair;
- 48 ▶ modifies provisions for the recusal of an ethics committee member;
- 49 ▶ requires the chair and vice chair of the committee to review the complaint for
- 50 technical compliance with filing rules;
- 51 ▶ requires a new complaint to be filed if the original complaint fails to meet filing
- 52 requirements;
- 53 ▶ requires the chair and vice chair of an ethics committee to forward a complaint that
- 54 meets the filing requirements to the Independent Legislative Ethics Commission;
- 55 ▶ provides that the commission shall conduct the original review of each ethics
- 56 complaint;
- 57 ▶ provides that commission meetings and hearings shall be closed to the public;
- 58 ▶ permits the commission or an ethics committee to dismiss allegations that have
- 59 previously been heard by the commission or an ethics committee;
- 60 ▶ provides procedures for the commission to schedule a meeting to review an ethics
- 61 complaint;
- 62 ▶ permits the accused legislator, referred to as the respondent, to file a response to the

- 63 complaint;
- 64 ▶ establishes procedures and requirements for filing a response;
- 65 ▶ permits the commission to hold meetings on preliminary matters in relation to a
- 66 complaint before holding the formal review of the complaint;
- 67 ▶ provides that the scope of the committee's authority is limited to review of those
- 68 allegations contained in the complaint;
- 69 ▶ provides procedures for the commission's review of the complaint;
- 70 ▶ permits the commission to consult on certain issues with commission staff outside
- 71 of the presence of parties and their counsel;
- 72 ▶ prohibits third party recording of a commission meetings, except under limited
- 73 circumstances;
- 74 ▶ requires that all portions of the commission's meetings be recorded;
- 75 ▶ provides procedures for storing a record of commission meetings;
- 76 ▶ provides that recordings and records of commission meetings are to be classified as
- 77 private records under the Government Records Access and Management Act;
- 78 ▶ provides procedures for the commission's deliberations when reviewing an ethics
- 79 complaint;
- 80 ▶ provides standards of evidence and voting procedures to be used by the commission
- 81 in determining whether each allegation in a complaint is proved or not proved;
- 82 ▶ requires the commission to dismiss allegations that are not found to be proved;
- 83 ▶ if one or more allegation is found to be proved, requires the commission to:
- 84 • refer the proved allegations to the Senate Ethics Committee or the House Ethics
- 85 Committee; and
- 86 • prepare a recommendation, a modified complaint, and a modified response for
- 87 public release and submission to the ethics committee for review;
- 88 ▶ provides procedures for the ethics committee's review of allegations submitted by
- 89 the commission;
- 90 ▶ provides that committee meetings for review of the allegations submitted by the
- 91 commission are subject to the Open and Public Meetings Act;
- 92 ▶ permits the committee to close the meeting for discussion of certain matters;
- 93 ▶ prohibits third party recording of committee meetings, except under limited

circumstances;

- requires that all portions of the committee's meetings be recorded;
- provides procedures for storing a record of committee meetings;
- provides procedures for the committee's deliberations;
- provides standards of evidence and voting procedures to be used by a committee in determining whether each allegation referred to the committee by the commission is proved or not proved;
- requires a committee to dismiss allegations that are not found to be proved;
- requires a committee to publicly issue a finding and order on the allegations;
- if one or more allegation is found to be proved, requires the committee to:
 - vote on a recommended consequence for the violation, including censure, expulsion, or denial of any of the respondent's rights or privileges; and
 - refer those finding and order to the membership of the House or Senate; and
- makes technical changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR6-2-101

JR6-2-102

JR6-2-201

JR6-3-101

JR6-4-101

JR6-4-102

JR6-4-201

ENACTS:

JR6-2-103

JR6-2-104

JR6-2-301

JR6-2-302

JR6-2-303

125 **JR6-2-304**

126 **JR6-2-305**

127 **JR6-2-306**

128 **JR6-2-307**

129 **JR6-3-102**

130 **JR6-4-103**

131 REPEALS AND REENACTS:

132 **JR6-2-202**

133 **JR6-4-202**

134 **JR6-4-203**

135 **JR6-4-204**

136 **JR6-4-301**

137 **JR6-4-302**

138 **JR6-4-303**

139 **JR6-4-304**

140 **JR6-4-305**

141 **JR6-4-306**

142 REPEALS:

143 **JR6-4-205**

144 **JR6-4-206**

145 **JR6-4-207**

146 **JR6-4-307**

147 **JR6-4-308**

148 **JR6-4-309**

149 **JR6-4-310**

150

151 *Be it resolved by the Legislature of the state of Utah:*

152 Section 1. **JR6-2-101** is amended to read:

153 **CHAPTER 2. HOUSE AND SENATE ETHICS COMMITTEES AND INDEPENDENT**

154 **ETHICS COMMISSION**

155 **Part 1. Membership, Meetings, and Staff**

JR6-2-101. Ethics Committees -- Membership.

(1) There is established a Senate Ethics Committee and a House Ethics Committee.

(2) The Senate Ethics Committee shall be composed of:

(a) the chair and three additional ~~[members]~~ senators appointed by the President of the Senate; and

(b) the ~~[cochair]~~ vice chair and three additional ~~[members]~~ senators appointed by the Senate minority leader.

(3) The House Ethics Committee shall be composed of:

(a) the chair and three additional ~~[members]~~ representatives appointed by the Speaker of the House of Representatives; and

(b) the ~~[cochair]~~ vice chair and three additional ~~[members]~~ representatives appointed by the House minority leader.

(4) ~~[Members of the committees]~~ A committee member shall serve a two year ~~[terms]~~ term.

(5) (a) ~~If a [complaint is filed against any member of the respective ethics committees, the President of the Senate or the Speaker of the House shall appoint another] member of an ethics committee is accused of wrongdoing in a complaint to be reviewed by the committee, or if a member of an ethics committee determines that he or she has a conflict of interest in relation to a complaint to be reviewed by the ethics committee, a member of the Senate or House [to] shall be appointed to temporarily serve in that member's place while the complaint is under review[:] as follows:~~

(i) except as provided in Subsection (5)(a)(ii), the member shall be appointed by the person who appointed the member who is being temporarily replaced, consistent with Subsection (2), for a members of the Senate Ethics Committee, or Subsection (3), for the House Ethics Committee; or

(ii) if the person designated to make the appointment under Subsection (5)(a)(i) is accused of wrongdoing in the complaint or determines that he or she has a conflict of interest in relation to the complaint, the appointment shall be made by:

(A) the Senate majority leader, if the person designated is the President of the Senate;

(B) the Senate minority whip, if the person designated is the Senate minority leader;

(C) the House majority leader, if the person designated is the Speaker of the House; or

(D) the House minority whip, if the person designated is the House minority leader.

(b) The temporary committee member's term ends when the committee has concluded its review of the complaint.

Section 2. **JR6-2-102** is amended to read:

JR6-2-102. Ethics Committee -- Meetings and Staff.

(1) The Senate and House Ethics Committees shall operate as both standing and interim committees.

(2) The committees shall meet as necessary, either as called at:

(a) the discretion of the chair; or

(b) by a majority vote of the committee.

(3) A majority of the committee is a quorum.

(4) The staff of ~~[the committees]~~ each committee consists of:

(a) the director of the Office of Legislative Research and General Counsel;

(b) the Legislative General Counsel; and

(c) any other ~~[members of the]~~ staff ~~[of that office]~~ designated by the director or the Legislative General Counsel.

Section 3. **JR6-2-103** is enacted to read:

JR6-2-103. Independent Legislative Ethics Commission -- Membership.

(1) As used in this section, "original appointing entity" means:

(a) for a former judge appointed to the commission under Subsection (3)(a), the president of the Senate, the speaker of the House, the Senate minority leader, and the House minority leader;

(b) for a former legislator appointed to the commission under Subsection (3)(b), the president of the Senate and the speaker of the House; or

(c) for a former legislator appointed to the commission under Subsection (3)(c), the Senate minority leader and the House minority leader.

(2) There is established an Independent Legislative Ethics Commission.

(3) The commission is composed of five persons, each of whom is registered to vote in this state, appointed as follows:

(a) three members, who have served, but no longer serve, as judges of a court of record in this state, no more than two of whom may be members of the same political party, appointed

218 by the mutual consent of the president of the Senate, the speaker of the House of
219 Representatives, the Senate minority leader, and the House minority leader;
220 (b) one member, who has served as a member of the Legislature in this state no more
221 recently than four years before the date of appointment, appointed by the mutual consent of the
222 president of the Senate and the speaker of the House; and
223 (c) one member, who has served as a member of the Legislature in this state no more
224 recently than four years before the date of appointment, appointed by the mutual consent of the
225 Senate minority leader and House minority leader.
226 (4) A member of the commission may not, during the member's term of office on the
227 commission, act or serve as:
228 (a) an officeholder as defined in Section 20A-11-101;
229 (b) an agency head as defined in Section 67-16-3;
230 (c) a lobbyist as defined in Section 36-11-102; or
231 (d) a principal as defined in Section 36-11-102.
232 (5) (a) (i) Except as provided in Subsection (5)(a)(ii), each member of the commission
233 shall serve a four-year term.
234 (ii) When appointing the initial members to the commission, the president of the
235 Senate, speaker of the House of Representatives, the Senate minority leader, and the House
236 minority leader shall direct that two of the members appointed under Subsection (3) serve a
237 two year term so that approximately half of the commission is appointed every two years.
238 (b) (i) When a vacancy occurs in the commission's membership for any reason, the
239 original appointing entity shall appoint a replacement for the unexpired term of the vacating
240 member.
241 (ii) For the purposes of this rule, an appointment for an unexpired term of a vacating
242 member is not considered a full term.
243 (c) A member may not be appointed to serve for more than two full terms, whether
244 those terms are two or four years.
245 (d) A member of the commission may resign from the commission by giving one
246 month's written notice of the resignation to the president of the Senate, speaker of the House,
247 Senate minority leader, and House minority leader.
248 (e) The chair of the Legislative Management Committee shall remove a member from

249 the commission if the member:

250 (i) is convicted of, or enters a plea of guilty to, a crime involving moral turpitude;

251 (ii) enters a plea of no contest or a plea in abeyance to a crime involving moral
252 turpitude; or

253 (iii) fails to meet the qualifications of office as provided in this rule.

254 (f) If a commission member is accused of wrongdoing in a complaint, or if a
255 commission member determines that he or she has a conflict of interest in relation to a
256 complaint, the original appointing entity shall appoint a temporary commission member
257 according to the procedures and requirements of Subsection (3), to serve in that member's place
258 for the purposes of reviewing that complaint.

259 (6) (a) The commission members shall convene a meeting annually each January and
260 elect, by a majority vote, a commission chair from among the commission members.

261 (b) A person may not serve as chair for more than two consecutive years.

262 (7) A commission member may not receive compensation or benefits for the member's
263 services, but may receive per diem and travel expenses in accordance with:

264 (a) Section 63A-3-106;

265 (b) Section 63A-3-107; and

266 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
267 63A-3-107.

268 Section 4. **JR6-2-104** is enacted to read:

269 **JR6-2-104. Independent Legislative Ethics Commission -- Meetings -- Staff.**

270 (1) The Independent Legislative Ethics Commission shall meet for the purpose of
271 reviewing an ethics complaint when:

272 (a) except otherwise expressly provided in this title, called to meet at the discretion of
273 the chair; or

274 (b) called to meet by a majority vote of the commission.

275 (2) A majority of the commission is a quorum.

276 (3) (a) The Senate and the House of Representatives shall employ staff for the
277 commission at a level that is reasonable to assist the commission in performing its duties as
278 established in this chapter.

279 (b) Staff for the commission shall work only for the commission and may not perform

280 services for the Senate, House of Representatives, or other legislative offices.

281 Section 5. **JR6-2-201** is amended to read:

282 **Part 2. General Powers and Procedures**

283 **JR6-2-201. Authority to Review Complaints -- Grounds for Complaint --**

284 **Limitations on Filings.**

285 [The] (1) Subject to the requirements of this chapter, the Senate Ethics Committee
286 [and], the House Ethics Committee [shall review and adjudicate any charges brought against a
287 member of the Senate or House for acts that violate: (1) the Code of Official Conduct; or (2)
288 any law, rule, regulation, or other standard of conduct applicable to the conduct of a member of
289 the Senate or House in the performance of legislative responsibilities, if the conduct would
290 reflect discredit upon the Senate or House as a whole.], and the Independent Legislative Ethics
291 Commission are authorized to review an ethics complaint against a legislator if the complaint
292 alleges:

293 (a) a violation of the Code of Official Conduct as provided in JR6-1-102;

294 (b) a conviction of, or a plea of guilty to, a crime involving moral turpitude; or

295 (c) a plea of no contest or a plea in abeyance to a crime involving moral turpitude.

296 (2) (a) For an alleged violation under Subsection (1)(a), the complaint must be filed
297 within two years of the date that the action or omission that forms the basis of the alleged
298 violation occurred or within two years of the date that the action or omission would have been
299 discovered by a reasonable person.

300 (b) For an alleged violation under Subsection (1)(b) or (1)(c), the complaint shall be
301 filed within two years of the date that the plea or conviction that forms the basis of the
302 allegation was entered.

303 (3) (a) A complaint may not contain an allegation that is based on facts and
304 circumstances against a legislator that have been previously reviewed by the commission or an
305 ethics committee.

306 (b) If a complaint contains an allegation that is based on facts and circumstances
307 against a legislator that have been previously reviewed by the commission or a committee, the
308 commission or ethics committee may summarily dismiss that allegation as provided in this
309 title.

310 Section 6. **JR6-2-202** is repealed and reenacted to read:

JR6-2-202. General Powers -- Jurisdiction.

(1) The commission and the committees have jurisdiction only over an individual who is currently serving in the Legislature.

(2) The commission and the committees shall dismiss an ethics complaint if the respondent legislator resigns from the Legislature.

Section 7. **JR6-2-301** is enacted to read:

Part 3. General Provisions Governing Hearings on Ethics Complaint

JR6-2-301. General Procedures for Conducting a Hearing on an Ethics Complaint.

(1) In conducting a hearing on a complaint, the Independent Legislative Ethics Commission or the Senate or House Ethics Committee shall comply with the following process in the order specified:

(a) introduction and instructions for procedure and process, at the discretion of the chair;

(b) complainants' opening argument, to be presented by a complainant or complainants' counsel;

(c) complainants' presentation of evidence and witnesses in support of allegations in the complaint;

(d) consideration of motions to dismiss the complaint or motions for a directed verdict, as applicable;

(e) respondent's opening argument, to be presented by the respondent or respondent's counsel;

(f) respondent's presentation of evidence and witnesses refuting allegations in the complaint;

(g) presentation of rebuttal evidence and witnesses by the complainants, at the discretion of the chair;

(h) presentation of rebuttal evidence and witnesses by the respondent, at the discretion of the chair;

(i) complainants' closing argument, to be presented by a complainant or complainants' counsel;

(j) respondent's closing argument, to be presented by the respondent or respondent's

342 counsel;

343 (k) deliberations by the commission or committee; and

344 (l) adoption of the commission's or committee's findings.

345 (2) The commission or an ethics committee may, in extraordinary circumstances, vary
346 the order contained in Subsection (1) by majority vote and by providing notice to the parties.

347 (3) The chair may schedule the examination of a witness or evidence subpoenaed at the
348 request of the chair or the committee under JR6-2-303 at the chair's discretion.

349 Section 8. **JR6-2-302** is enacted to read:

350 **JR6-2-302. Chair as Presiding Judge.**

351 (1) Except as expressly provided otherwise in this title, the chair of the Independent
352 Legislative Ethics Commission and the chair of the Senate or House Ethics Committee is
353 vested with the power to direct the commission or committee during meetings authorized by
354 this title.

355 (2) Unless expressly prohibited from doing so under this title, the commission or
356 committee may overrule a decision of the chair by using the following procedure:

357 (a) If a member objects to a decision of the chair, that member may appeal the decision
358 by stating:

359 (i) "I appeal the decision of the chair."; and

360 (ii) the basis for the objection.

361 (b) This motion is nondebatable.

362 (c) The chair shall direct a roll call vote to determine if the commission or committee
363 supports the decision of the chair.

364 (d) A majority vote of the commission or committee is necessary to overrule the
365 decision of the chair.

366 (3) The chair may set time limitations on any part of a meeting or hearing authorized
367 by this title.

368 Section 9. **JR6-2-303** is enacted to read:

369 **JR6-2-303. Subpoena Powers.**

370 (1) For all proceedings authorized by this title, the Independent Ethics Commission or
371 the Senate or House Ethics Committee may issue a subpoena to:

372 (a) require the attendance of a witness;

373 (b) direct the production of evidence; or

374 (c) require both the attendance of a witness and the production of evidence.

375 (2) The commission shall issue a subpoena under this rule:

376 (a) as required under JR6-2-305;

377 (b) at the direction of the commission chair, if the chair determines that the testimony
378 or evidence is relevant to the review of a complaint under Chapter 4, Part 2, Review of Ethics
379 Complaint by the Independent Legislative Ethics Commission; or

380 (c) upon a vote of a majority of the commission members.

381 (3) An ethics committee shall issue a subpoena under this rule:

382 (a) as required under JR6-2-305;

383 (b) at the direction of the committee chair or vice chair, if the chair or vice chair
384 determines that the testimony or evidence is relevant to review of a complaint under Chapter 4,
385 Part 3, Review of Ethics Complaint by Ethics Committee; or

386 (c) upon a vote of a majority of the committee members.

387 (4) The Director of the Office of Legislative Research and General Counsel shall issue
388 a subpoena on behalf of an ethics committee when requested to do so by one of the persons or
389 entities authorized to do so under Subsection (3).

390 Section 10. **JR6-2-304** is enacted to read:

391 **JR6-2-304. Contempt of the Legislature.**

392 (1) (a) The following actions constitute contempt of the Legislature in relation to
393 actions and proceedings under this title:

394 (i) disobedience to a direction of the commission chair;

395 (ii) disobedience to a direction of an ethics committee chair;

396 (iii) failure to answer a question during a hearing when directed to do so by:

397 (A) the commission chair, unless the direction is overridden by the commission under
398 JR6-2-302;

399 (B) an ethics committee, unless the direction is overridden by the committee under
400 JR6-2-302; or

401 (C) a majority of the commission or committee; or

402 (iv) failure to comply with a subpoena or other order issued under authority of this
403 title;

(v) violation of privacy provisions established by JR6-3-102;

(vi) violation of the communication provisions established by JR6-3-306;

(vii) violation of a request to comply with a provision of this title by a chair or a majority of the members of the commission or committee; or

(viii) any other ground that is specified in statute or recognized at common law.

(b) Because the purpose of the Fifth Amendment privilege not to incriminate oneself is to prevent prosecution for criminal action, it is improper for a witness to invoke the Fifth Amendment privilege if the witness cannot be prosecuted for the crime to which the witness's testimony relates.

(2) (a) The following persons may authorize an enforcement action against a person in contempt of the Legislature under the provisions of this title:

(i) the commission chair, subject to the provisions of JR6-2-302;

(ii) members of the commission, by means of a majority vote;

(iii) an ethics committee chair, subject to the provisions of JR6-2-302; or

(iv) members of an ethics committee, by means of a majority vote.

(b) In initiating and pursuing an action against an individual for contempt of the Legislature, the plaintiff shall comply with the procedures and requirements of Section 36-14-5.

Section 11. **JR6-2-305** is enacted to read:

JR6-2-305. Testimony and Examination of Witnesses -- Oath -- Procedure -- Contempt.

(1) (a) The chair shall ensure that each witness listed in the complaint and response is subpoenaed for appearance at the hearing unless:

(i) the witness is unable to be properly identified or located; or

(ii) service is otherwise determined to be impracticable.

(b) The chair shall determine the scheduling and order of witnesses and presentation of evidence.

(c) The commission or committee may, by majority vote:

(i) overrule the chair's decision not to subpoena a witness under Subsection (1)(a);

(ii) modify the chair's determination on the scheduling and order of witnesses under Subsection (1)(b);

(iii) decline to hear or call a witness that has been requested by the complainant or respondent;

(iv) decline to review or consider evidence submitted in relation to an ethics complaint;
or

(v) request and subpoena witnesses or evidence according to the procedures of JR6-2-303.

(2) (a) Each witness shall testify under oath.

(b) The chair or the chair's designee shall administer the oath to each witness.

(3) After the oath has been administered to the witness, the chair shall direct testimony as follows:

(a) allow the party that has called the witness, or that party's counsel, to question the witness;

(b) allow the opposing party, or that party's counsel, to cross-examine the witness;

(c) allow additional questioning by a party or a party's counsel as appropriate;

(d) give commission or committee members the opportunity to question the witness;

and

(e) as appropriate, allow further examination of the witness by the commission or committee, or the parties or their counsel.

(4) (a) If the witness, a party, or a party's counsel objects to a question, the chair shall:

(i) direct the witness to answer; or

(ii) rule that the witness is not required to answer the question.

(b) If the witness declines to answer a question after the chair or a majority of the commission or committee determines that the witness is required to answer the question, the witness may be held in contempt as provided in JR6-2-304.

(5) (a) The chair or a majority of the members of the commission or committee may direct a witness to furnish any relevant evidence for consideration if the witness has brought the material voluntarily or has been required to bring it by subpoena.

(b) If the witness declines to provide evidence in response to a subpoena, the witness may be held in contempt as provided in JR6-2-304.

Section 12. **JR6-2-306** is enacted to read:

JR6-2-306. Communications of Commission and Committee Members.

(1) As used in this section, "third party" means:

(a) for a member of the Independent Legislative Ethics Commission, a person who is not a member of the commission or staff to the commission; or

(b) for a member of an ethics committee, a person who is not a member of the committee or staff to the committee.

(2) While a complaint is under review by the commission or an ethics committee, a member of that commission or committee may not initiate or consider any communications concerning the complaint with a third party unless:

(a) the communication is expressly permitted under the procedures established by this title; or

(b) the communication is made by the third party, in writing, simultaneously to:

(i) all members of the commission or committee; and

(ii) a staff member of the commission or committee.

(3) (a) While the commission is reviewing a complaint under this title, a commission member may communicate outside of the meetings, hearing, or deliberations with another member of, or staff to, the commission, only if the member's communication does not materially compromise the member's responsibility to independently review and make decisions in relation to the complaint.

(b) While a committee is reviewing a complaint under this title, a committee member may communicate outside of the meeting, hearing, or deliberations with another member of, or staff to, the committee, only if the member's communication does not materially compromise the member's responsibility to independently review and make decisions in relation to the complaint.

(4) While a complaint is under review by an ethics committee, a member of the commission may not comment publicly or privately about the commission's decision, reasoning, or other matters relating to the ethics complaint, but may provide or refer a questioner to the commission's written recommendation.

Section 13. **JR6-2-307** is enacted to read:

JR6-2-307. Attorney Fees and Costs.

(1) A person filing a complaint under this title:

(a) may, but is not required to, retain legal representation during the complaint review

process; and

(b) is responsible for payment of complainants' attorney fees and costs incurred.

(2) (a) A legislator against whom a complaint is filed under this title:

(i) may, but is not required to, retain legal representation during the complaint review

process; and

(ii) is responsible for their own attorney fees and costs involved, except as provided in

Subsection (2)(b).

(b) The Senate, for a senator, or the House of Representatives, for a representative,

shall pay the reasonable attorney fees and costs incurred by a legislator against whom a

complaint is filed under this title if:

(i) the commission declines to recommend that any allegation in the complaint be reviewed by an ethics committee; or

(ii) an ethics committee determines that none of the allegations in the complaint that were recommended for review by the commission have been proved.

(3) (a) An attorney participating in a hearing before the commission or an ethics committee shall comply with:

(i) the Rules of Professional Conduct established by the Utah Supreme Court;

(ii) the procedures and requirements of this title; and

(iii) the directions of the chairs, commission, and ethics committees.

(b) Violations of Subsection (3)(a) may constitute:

(i) contempt of the Legislature under JR6-2-304; or

(ii) a violation of the Rules of Professional Conduct subject to enforcement by the Utah

State Bar.

Section 14. **JR6-3-101** is amended to read:

**CHAPTER 3. FILING A COMPLAINT ALLEGING A VIOLATION OF
LEGISLATIVE ETHICS**

JR6-3-101. Ethics Complaints -- Filing -- Form.

~~[(1) Any legislator who wishes to file an ethics complaint against another legislator shall file a written complaint.]~~

(1) (a) The following individuals, who shall be referred to as the complainants, may file a complaint against an individual legislator if the complaint meets the requirements of

528 JR6-2-201 and Subsection(1)(b):

529 (i) two or more members of the House of Representatives, for a complaint against a
530 representative;

531 (ii) two or more members of the Senate, for a complaint against a senator; or

532 (iii) two or more registered voters currently residing within Utah, if, for each alleged
533 violation pled in the complaint, at least one of those registered voters has actual knowledge of
534 the facts and circumstances supporting the alleged violation.

535 (b) A complainant may file a complaint only against an individual who is serving as a
536 member of the Legislature on the date that the complaint is filed.

537 (2) (a) Complainants shall file a complaint with:

538 [(a)] (i) [with the President of the Senate and] the chair and vice chair of the Senate
539 Ethics Committee, if the complaint is against a [Senator] member of the Senate; or

540 [(b)] (ii) [with the Speaker of the House and] the chair and vice chair of the House
541 Ethics Committee, if the complaint is against a [Representative] member of the House of
542 Representatives.

543 (b) An individual may not file a complaint during the 60 calendar days immediately
544 preceding a regular primary election or regular general election in which the accused legislator
545 is a candidate.

546 [(2)-(a)] (3) [The legislator filing the complaint shall ensure that it contains] The
547 complainants shall ensure that each complaint filed under this rule is in writing and contains
548 the following information:

549 [(i)] (a) the name and position or title of the [person] legislator alleged to be in
550 violation, who [is] shall be referred to as the respondent;

551 [(ii)] (b) the name [and], address, and telephone number of [at least three Senators, if
552 the respondent is a Senate member, or at least three Representatives, if the respondent is a
553 House member, who are] each individual who is filing the complaint[, who are the complainant
554 or complainants];

555 [(iii)] (c) [the nature of the] a description of each alleged violation[;], including for
556 each alleged violation:

557 [(iv)] subject to Subsection (1)(b), any facts alleged to support the complaint; and]

558 [(v)] all documents that support the complaint as an attachment to it.]

559 (i) a reference to:
560 (A) the section of the code of conduct alleged to have been violated; or
561 (B) the criminal provision violated and the docket number of the case involving the
562 legislator;
563 (ii) the name of the complainant or complainants who have actual knowledge of the
564 facts and circumstances supporting each allegation;
565 (iii) the facts and circumstances supporting each allegation, which shall be provided
566 by:
567 (A) copies of official records or documentary evidence; or
568 (B) one or more affidavits, each of which shall comply with the following format:
569 (I) the name, address, and telephone number of the signer;
570 (II) a statement that the signer has actual knowledge of the facts and circumstances
571 alleged in the affidavit;
572 (III) the facts and circumstances testified to by the signer;
573 (IV) a statement that the affidavit is believed to be true and correct and that false
574 statements are subject to penalties of perjury; and
575 (V) the signature of the signer;
576 (d) a list of the witnesses that the complainants wish to have called, including for each
577 witness:
578 (i) the name, address, and, if available, one or more telephone numbers, of the witness;
579 (ii) a brief summary of the testimony to be provided by the witness; and
580 (iii) a specific description of any documents or evidence complainants desire the
581 witness to produce;
582 (e) a statement that each complainant:
583 (i) has reviewed the allegations contained in the complaint and the sworn statements
584 and documents attached to the complaint;
585 (ii) believes that the complaint is submitted in good faith and not for any improper
586 purpose such as for the purpose of harassing the respondent, causing unwarranted harm to the
587 respondent's reputation, or causing unnecessary expenditure of public funds; and
588 (iii) believes the allegations contained in the complaint to be true and accurate; and
589 (f) the signature of each complainant.

~~[(b) If any of the facts supporting the complaint are based upon the information and belief of the complainants, the complaint shall state that the facts are presented "upon information and belief" and give the basis for that information and belief.]~~

Section 15. **JR6-3-102** is enacted to read:

JR6-3-102. Privacy of Ethics Complaints -- Contempt -- Enforcement of Finding of Contempt.

(1) (a) Except as provided in Subsection (1)(b) or (c), a person, including the complainants, the respondent, commission members, a committee chair or vice chair, or staff to the commission or a committee, may not disclose the existence of a complaint, a response, nor any information concerning any alleged violation that is the subject of a complaint.

(b) A complaint or response that is publicly released by the commission and referred to an ethics committee for review under the procedures and requirements of JR6-4-204, and the allegations contained in the publicly released complaint, are not subject to the restrictions of Subsection (1)(a).

(c) Nothing in this rule prevents a person from disclosing facts or allegations about potential criminal violations to law enforcement authorities.

(2) A person who violates the provisions of Subsection (1)(a) is in contempt of the Legislature and proceedings may be initiated to enforce the finding of contempt using the procedures provided in JR6-2-304 and Section 36-14-5.

Section 16. **JR6-4-101** is amended to read:

CHAPTER 4. PROCEDURES FOR REVIEWING ETHICS COMPLAINTS

Part 1. Initial Review of Ethics Complaint and Response

JR6-4-101. Review of Ethics Complaint for Compliance with Form Requirements -- Independent Requirements for Complaint -- Notice of Complaint to Commission Members.

(1) ~~[(a)]~~ Within five business days after receipt of ~~[the]~~ a complaint, the staff of the ~~[committee]~~ ethics committee receiving the complaint, in consultation with the committee chair and [cochair] vice chair, shall examine ~~[each]~~ the complaint to determine if it is in compliance with JR6-2-201 and JR6-3-101.

~~[(b)-(i)]~~ (2) (a) If the chair and ~~[cochair determine]~~ vice chair determine that the complaint does not comply with JR6-2-201 or JR6-3-101, the chair shall return the complaint

to the ~~[complainants]~~ first complainant named on the complaint with:

(i) a statement detailing the reason for the non-compliance; and

(ii) a copy of the applicable legislative rules ~~[on ethics]~~.

~~[(ii) The]~~ (b) If a complaint is returned for non-compliance with the requirements of this title, the complainants may ~~[resubmit the]~~ file another complaint if the new complaint independently meets the requirements of JR6-3-101, including any requirements for timely filing.

~~[(c)]~~ (3) If the chair and ~~[cochair]~~ vice chair determine that the complaint complies with ~~[this title]~~ the requirements of this rule, the chair shall:

~~[(i)]~~ (a) accept the complaint;

~~[(ii)]~~ (b) notify ~~[each member]~~ the chair and the staff of the ~~[ethics committee]~~ Independent Legislative Ethics Commission that the complaint has been filed and accepted; and

~~[(iii)]~~ (c) ~~[provide each member of the ethics committee with a copy of]~~ promptly forward the complaint[;] to:

~~[(2) No committee member or staff may disclose publically any information received by the committee concerning any alleged violation until the member of the Senate or House charged in the violation has received the Summary of the Preliminary Inquiry required by JR6-4-206.]~~

(i) the commission; and

(ii) the legislator that is the subject of the ethics complaint via personal delivery or a delivery method that provides verification of receipt, together with a copy of the applicable legislative rules and notice of the legislator's deadline for filing a response to the complaint.

Section 17. **JR6-4-102** is amended to read:

JR6-4-102. Meeting of the Independent Legislative Ethics Commission for Review of Complaint -- Procedures.

~~[(1) Within 30 days after the complaint is accepted, the chair and cochair shall:]~~

By no later than 10 calendar days after the day on which the complaint is accepted under JR6-4-101, the commission chair shall:

~~[(a)]~~ (1) schedule ~~[an ethics committee]~~ a commission meeting[; and] on a date no later than 60 calendar days after the date on which the committee chair and vice chair accept the

652 complaint;

653 ~~[(b)]~~ (2) place the [ethics] complaint on the agenda for consideration at that meeting

654 ~~[with the recommendation that:];~~

655 ~~[(i) the complaint be considered; or]~~

656 ~~[(ii) the complaint be dismissed because it fails to allege facts that constitute a~~

657 ~~violation.];~~

658 ~~[(2) (a) At the ethics committee meeting, the committee shall determine:]~~

659 ~~[(i) whether or not the alleged violation in the complaint is within the jurisdiction of~~

660 ~~the committee; and]~~

661 ~~[(ii) whether or not the complaint merits further inquiry.]~~

662 ~~[(b) The chair shall notify the complainants and respondent, in writing, of the~~

663 ~~determination made by the committee.];~~

664 ~~[(3) If the committee determines that the complaint merits further inquiry, the~~

665 ~~committee meeting shall become a preliminary inquiry to determine whether the alleged~~

666 ~~violation occurred.];~~

667 (3) provide notice of the date, time, and location of the meeting to:

668 (a) the members of the commission;

669 (b) the first complainant named in the complaint; and

670 (c) the respondent; and

671 (4) provide a copy of the complaint to each member of the commission.

672 Section 18. **JR6-4-103** is enacted to read:

673 **JR6-4-103. Response to Ethics Complaint -- Filing -- Form.**

674 (1) The legislator that is the subject of the complaint may file a response to the

675 complaint no later than 30 days after the day on which the legislator receives delivery of the

676 complaint.

677 (2) The respondent shall file the response with the commission and shall ensure that

678 the response is in writing and contains the following information:

679 (a) the name, address, and telephone number of the respondent;

680 (b) for each alleged violation in the complaint:

681 (i) each affirmative defense asserted in response to the allegation, including a general

682 description of each affirmative defense and the facts and circumstances supporting the defense

683 to be provided by one or more affidavits, each of which shall comply with the following
684 format:

685 (A) the name, address, and telephone number of the signer;

686 (B) a statement that the signer has actual knowledge of the facts and circumstances
687 alleged in the affidavit;

688 (C) the facts and circumstances testified to by the signer;

689 (D) a statement that the affidavit is believed to be true and correct and that false
690 statements are subject to penalties of perjury; and

691 (E) the signature of the signer;

692 (ii) the facts and circumstances refuting the allegation, which shall be provided by:

693 (A) copies of official records or documentary evidence; or

694 (B) one or more affidavits, each of which shall comply with the following format:

695 (I) the name, address, and telephone number of the signer;

696 (II) a statement that the signer has actual knowledge of the facts and circumstances
697 alleged in the affidavit;

698 (III) the facts and circumstances testified to by the signer;

699 (IV) a statement that the affidavit is believed to be true and correct and that false
700 statements are subject to penalties of perjury; and

701 (V) the signature of the signer;

702 (c) a list of the witnesses that the respondent wishes to have called, including for each
703 witness:

704 (i) the name, address, and, if available, telephone number, of the witness;

705 (ii) a brief summary of the testimony to be provided by the witness; and

706 (iii) a specific description of any documents or evidence the respondent desires the
707 witness to produce;

708 (d) a statement that the respondent:

709 (i) has reviewed the allegations contained in the complaint and the sworn statements
710 and documents attached to the response; and

711 (ii) believes the contents of the response to be true and accurate; and

712 (e) the signature of the respondent.

713 (3) Promptly after receiving the response, the commission shall provide copies of the

714 response to:

715 (a) each member of the commission; and

716 (b) the first named complainant on the complaint.

717 Section 19. **JR6-4-201** is amended to read:

718 **Part 2. Review of Ethics Complaint by the Independent Legislative Ethics Commission**

719 **JR6-4-201. Review of Ethics Complaint by the Independent Legislative Ethics**
720 **Commission.**

721 (1) The scope of the [~~preliminary inquiry~~] Independent Legislative Ethics
722 Commission's review is limited to the alleged violations stated in the complaint.

723 [~~(2) (a) Only relevant or material evidence is admissible in the preliminary inquiry.~~]

724 (2) (a) Before holding the meeting for review of the complaint, the commission chair
725 may schedule a separate meeting of the commission for the purposes of:

726 (i) hearing motions or arguments from the parties, including hearing motions or
727 arguments relating to dismissal of a complaint, admission of evidence, or procedures;

728 (ii) holding a vote of the commission, with or without the attendance of the parties, on
729 procedural or commission business matters relating to a complaint; or

730 (ii) reviewing a complaint, with or without the attendance of the parties, to determine if
731 the complaint should be dismissed in whole or in part, by means of a majority vote of the
732 commission, because it pleads facts or circumstances against a legislator that have already been
733 reviewed by the commission or an ethics committee as provided in JR6-2-201.

734 (b) Notwithstanding JR6-4-102, the commission may, by a majority vote, change the
735 date of the meeting for review of the complaint in order to accommodate:

736 (i) a meeting authorized under Subsection (2)(a); or

737 (ii) necessary scheduling requirements.

738 (3) (a) The commission shall comply with the Utah Rules of Evidence except where
739 the commission determines, by majority vote, that a rule is not compatible with the
740 requirements of this title.

741 (b) The [~~chair's determination of~~] chair shall make rulings on admissibility [~~is final and~~
742 may only be overruled by a majority vote of the committee] of evidence consistent with the
743 provisions of JR6-2-302.

744 [~~(3) At the beginning of the preliminary inquiry, in order to expedite the committee's~~]

investigation and to facilitate a rapid resolution of the matter, the committee cochairs and the respondent may agree in writing that the procedural requirements of Part 3, Disciplinary Hearing, are waived.]

(4) (a) ~~[The preliminary inquiry is]~~ All meetings and hearings authorized in this part are closed to the public.

(b) The ~~[respondent and the respondent's counsel]~~ following individuals may be present during the presentation of testimony and evidence to the ~~[committee:]~~ commission:

~~[(c) Only Ethics Committee members and staff may be present during other portions of the preliminary inquiry.]~~

~~[(5) Except for the official record, no camera or recording device may be brought in or used in the preliminary inquiry.]~~

~~[(6) Upon consent of a majority of its members, the committee may permit any person, not compelled or invited, to appear and testify at a hearing or submit a sworn written statement of facts or other documentary evidence for incorporation into the record.]~~

~~[(7) (a) The release of any testimony or other evidence presented at a closed hearing and the form and manner of that release shall be by a majority vote of all members of the committee.]~~

~~[(b) Committee members and committee staff may not publicly disclose any other part of the preliminary inquiry.]~~

(i) the complainants, except that no more than three complainants may be present at one time;

(ii) complainants' counsel, if applicable;

(iii) the respondent;

(iv) the respondent's counsel, if applicable;

(v) members of the commission;

(vi) staff to the commission;

(vii) a witness, while testifying before the commission; and

(viii) necessary security personnel.

(c) The complainants, respondent, and their respective counsel may be excluded from a portion of the meeting when the commission discusses administrative, procedural, legal, or evidentiary issues by:

(i) the order of the chair, subject to override as provided in JR6-2-302; or

(ii) a majority vote of the commission.

(d) When the commission deliberates at the conclusion of presentation of testimony and evidence, the commission shall ensure that those deliberations are closed to all persons except for the members of the commission and commission staff.

~~[(8)]~~ (5) If a majority of the [committee] commission determines that a continuance is necessary to obtain further evidence and testimony [are necessary], to accommodate administrative needs, or to accommodate the attendance of commission members, witnesses, or a party, the [committee] commission shall:

(a) adjourn and continue the [preliminary inquiry hearing] meeting to a future date and time after notice to the parties; and

(b) establish that future date and time by majority vote.

Section 20. **JR6-4-202** is repealed and reenacted to read:

JR6-4-202. Record -- Recording of Meetings.

(1) (a) Except as provided in Subsection (1)(b), an individual may not use a camera or other recording device in any meeting authorized by this part.

(b) (i) The commission shall keep an audio or video recording of all portions of each meeting authorized by this part.

(ii) If the commission elects, by a majority vote, to release the commission's recommendation in a public meeting, the meeting may, upon a majority vote of the commission, be opened to cameras or other recording devices.

(2) In addition to the recording required in Subsection (1), the chair shall ensure that a record of the meeting or hearing is made, which shall include:

(a) official minutes taken during the meeting or hearing, if any;

(b) copies of all documents or other items admitted into evidence by the commission;

(c) copies of any documents or written orders or rulings issued by the chair or the commission; and

(d) any other information that a majority of the commission or the chair directs.

(3) Except for the recommendation prepared by the commission, which shall be either a private or public record as determined in JR6-4-204, any recording, testimony, evidence, or other record of a meeting authorized by this part is a private record under Section 63G-2-302

807 and may not be disclosed.

808 Section 21. **JR6-4-203** is repealed and reenacted to read:

809 **JR6-4-203. Process for Making a Decision -- Deliberations.**

810 (1) After each party has presented a closing argument, the commission shall, at the
811 direction of the chair, begin its private deliberations:

812 (a) immediately after conclusion of the closing arguments; or

813 (b) at a future meeting of the commission, on a date and time determined by a majority
814 of the members of the commission.

815 (2) The chair of the commission shall conduct the deliberations.

816 (3) (a) During deliberations, for each allegation reviewed by the commission, each
817 member shall determine and cast a vote stating whether the allegation is:

818 (i) proven by clear and convincing evidence; or

819 (ii) not proven.

820 (b) A verbal roll call vote shall be taken on each allegation and each member's vote
821 shall be recorded.

822 (4) (a) A count is not considered to be proven unless four of the five members of the
823 commission vote that the count is proven.

824 (b) A count that is not considered to be proven is dismissed.

825 (c) (i) Before the commission issues its recommendation under JR6-4-204, the
826 commission may, upon a majority vote, may reconsider and hold a new vote on an allegation.

827 (ii) A motion to reconsider a vote may only be made by a member of the commission
828 who voted that the allegation was not proved.

829 (5) At the conclusion of deliberations, the commission shall prepare its
830 recommendations as provided in JR6-4-204.

831 Section 22. **JR6-4-204** is repealed and reenacted to read:

832 **JR6-4-204. Recommendations of Commission.**

833 (1) If the commission determines that no allegations in the complaint were proved, the
834 commission shall:

835 (a) issue and enter into the record an order that the complaint is dismissed because no
836 allegations in the complaint were found to have been proved;

837 (b) classify all recordings, testimony, evidence, orders, findings, and other records

838 directly relating to the meetings authorized by this part as private records under Section
839 63G-2-302;

840 (c) provide notice of the determination, in a manner determined by a majority vote of
841 the commission, to:

842 (i) the respondent; and

843 (ii) the first complainant named on the complaint; and

844 (d) provide notice to a person named in Subsection (1)(c) that, under the provisions of
845 JR6-3-102 and other provisions of this title, a person who discloses the findings of the
846 commission is in contempt of the Legislature and is subject to penalties for contempt.

847 (2) If the commission determines that one or more of the allegations in the complaint
848 were proved, the commission shall:

849 (a) if one or more allegations were not found to have been proven, enter into the record
850 an order dismissing those unproven allegations;

851 (b) prepare a written recommendation to the Senate Ethics Committee, if the
852 respondent is a senator, or to the House Ethics Committee, if the respondent is a representative
853 that:

854 (i) lists the name of each complainant;

855 (ii) lists the name of the respondent;

856 (iii) states the date of the recommendation;

857 (iv) for each allegation that was found to be proven:

858 (A) provides a reference to the code of conduct or criminal provision allegedly
859 violated;

860 (B) states the number and names of commission members voting that the allegation
861 was proved and the number and names of commission members voting that the allegation was
862 not proved;

863 (C) at the option of those members voting that the allegation was proved, includes a
864 statement by one or all of those members stating the reasons for voting that the allegation was
865 proved, provided that the statement does not cite specific evidence, specific testimony, or
866 specific witnesses; and

867 (D) at the option of those members voting that the allegation was not proved, includes
868 a statement by one or all of those members stating the reasons for voting that the allegation was

869 not proved, provided that the statement does not cite specific evidence, specific testimony, or
870 specific witnesses;

871 (v) contains any general statement that is adopted for inclusion in the recommendation
872 by a majority of the members of the commission;

873 (vi) contains a statement referring the allegations found to have been proved to the
874 appropriate ethics committee for review;

875 (vii) states the name of each member of the commission; and

876 (viii) is signed by each commission member;

877 (c) direct staff to publicly release the recommendation, the complaint, and the
878 response, subject to the redaction of any allegations that were dismissed by the commission;
879 and

880 (d) classify all other recordings, testimony, evidence, orders, findings, and other
881 records directly relating to the meetings and hearings authorized by this part as private records
882 under Section 63G-2-302.

883 (3) Notwithstanding any other provision of this title, the commission may not release a
884 recommendation during the 60 calendar days immediately preceding a regular primary election
885 or a regular general election if the respondent is a candidate in the election.

886 (4) The commission shall ensure that a copy of the recommendation is made publicly
887 available and promptly provided to:

888 (a) the respondent, together with notice that the respondent may amend respondent's
889 witness list as provided in JR6-4-301;

890 (b) the first complainant named on the complaint, together with notice that the
891 complainants may amend their witness list as provided in JR6-4-301; and

892 (c) the chair and vice chair of the Senate Ethics Committee, if the respondent is a
893 senator, or the chair and vice chair of the House Ethics Committee, if the respondent is a
894 representative.

895 (5) The commission shall ensure that, within five business days of the date of issuance
896 of the recommendation:

897 (a) the complaint and the response are redacted to remove references to those
898 allegations found not to have been proven by the commission, if one or more allegations were
899 found not to have been proven;

(b) the following documents are made publicly available and are provided to the chair and vice chair of the Senate Ethics Committee, if the respondent is a senator, or the chair and vice chair of the House Ethics Committee, if the respondent is a representative:

(i) a cover letter referring the allegations contained in the edited complaint to the ethics committee for the committee's review;

(ii) a copy of the edited complaint;

(iii) a copy of the edited response; and

(iv) a copy of the recommendation.

Section 23. **JR6-4-301** is repealed and reenacted to read:

Part 3. Review of Ethics Complaint by Ethics Committee

JR6-4-301. Receipt of Recommendation from Independent Legislative Ethics

Commission -- Scheduling of Ethics Committee Hearing -- Amendments.

(1) Within five calendar days of the date that the chair of the Senate Ethics or House Ethics Committee receives the commission's recommendation as provided under JR6-4-204, the chair and vice chair of the committee shall:

(a) schedule an committee hearing to review the complaint on a date no later than 30 days after of the day on which the committee receives the recommendation; and

(b) place the ethics complaint on the agenda for consideration at that hearing.

(2) (a) The complainants may not amend the complaint.

(b) The respondent may not amend the response.

(c) The complainant and respondent may file with the committee, within 10 days of the date of issuance of the commission's recommendations, an amended list of witnesses and evidence that they wish to have subpoenaed by the committee.

Section 24. **JR6-4-302** is repealed and reenacted to read:

JR6-4-302. Review of Ethics Complaint by Ethics Committee.

(1) The scope of the committee's review is limited to the alleged violations found to have been proven by the commission, as pled in the edited complaint and the edited response provided by the commission.

(2) (a) Before holding the hearing for review of the complaint as scheduled in JR6-4-301, the chair may schedule a separate meeting of the committee to:

(i) hear motions or arguments from the parties, including hearing motions or arguments

931 relating to dismissal of a complaint, admission of evidence, or procedures; or
932 (ii) hold a vote of the committee, with or without the attendance of the parties, on
933 procedural or committee business matters relating to a complaint.
934 (b) Notwithstanding JR6-4-301, the committee may, by a majority vote, change the
935 date of the hearing scheduled in JR6-4-301 in order to accommodate:
936 (i) a meeting authorized under Subsection (2)(a); or
937 (ii) necessary scheduling requirements.
938 (3) (a) The committee shall comply with the Utah Rules of Evidence, except where the
939 committee determines, by majority vote, that a rule is not compatible with the requirements of
940 this title.
941 (b) The chair shall make rulings on admissibility of evidence consistent with the
942 provisions of JR6-4-202.
943 (4) (a) A meeting or hearing held under this Chapter 4, Part 3, Review of Ethics
944 Complaint by Ethics Committee:
945 (i) is subject to the requirements of Title 52, Chapter 4, Open and Public Meetings Act;
946 and
947 (ii) may be closed by a majority vote of the committee, held in the public portion of the
948 meeting, for:
949 (A) any purpose permitted under Section 52-4-205;
950 (B) the purpose of discussing legal, evidentiary, or procedural matters with the
951 committee or staff; or
952 (C) deliberations, as provided in JR6-4-304.
953 (b) Only committee members, committee staff, and necessary security personnel may
954 attend a closed meeting.
955 (5) If a majority of the committee determines that a continuance of a meeting or
956 hearing is necessary to obtain further evidence and testimony, to accommodate administrative
957 needs, or to accommodate the attendance of committee members, witnesses, or a party, the
958 chair or committee shall:
959 (a) adjourn and continue the hearing or meeting to a future date and time; and
960 (b) establish that future date and time by majority vote.
961 Section 25. **JR6-4-303** is repealed and reenacted to read:

JR6-4-303. Record -- Recording of Meetings.

(1) (a) Except as provided in Subsection (1)(b), an individual may not use a camera or other recording device in any meeting authorized by this part.

(b) (i) The committee shall keep an audio or video recording of all portions of each meeting authorized by this part.

(ii) If the committee elects, by a majority vote, to release the committee's finding and order in a public meeting, that meeting may, upon a majority vote of the committee, be opened to cameras or other recording devices.

(2) In addition to the recording required in Subsection (1), the chair shall ensure that a record of each hearing or meeting is made, which shall include:

(a) official minutes taken during the meeting or hearing, if any;

(b) copies of all documents or other items admitted into evidence;

(c) copies of any documents, written orders, or written rulings issued by the chair or the committee; and

(d) any other information that a majority of the committee or the chair directs.

(3) (a) Except as provided in Subsection (3)(b), all recordings, testimony, evidence, and other records of meetings and hearings authorized by this part are public records.

(b) All recordings, minutes, and other records produced during a closed meeting authorized under this part are classified as private records under Section 63G-2-302.

Section 26. **JR6-4-304** is repealed and reenacted to read:

JR6-4-304. Process for Making a Decision -- Deliberations -- Voting in Public Meeting.

(1) After each party has presented a closing argument, the committee shall deliberate in a closed meeting:

(a) immediately after conclusion of the closing arguments; or

(b) at a future meeting of the committee, on a date and time determined by a majority of the members of the committee.

(2) The chair of the committee shall conduct the deliberations.

(3) During the deliberations, committee members:

(a) may discuss evidence and testimony;

(b) may discuss and debate whether an allegation was proven or not proven;

(c) may discuss and debate what actions should be taken or not taken against the respondent in relation to each allegation;

(d) may discuss and debate any other matter related to the allegations in the complaint that is before the committee; and

(e) may conduct, at the call of the chair or a majority of the members of the committee, a non-binding straw poll on any matter related to the complaint.

(4) (a) Notwithstanding JR6-2-306, and except as provided in Subsection (4)(b), from the time of completion of closing arguments through the time that the written finding and order are publicly issued, a committee member may not discuss any of the following matters with any other person outside of official committee deliberations:

(i) the substance or specifics of the allegations, testimony, or evidence of the complaint under review;

(ii) a committee member's intended vote;

(iii) a committee member's recommendation for actions to be taken or not taken against the respondent in relation to the complaint; or

(iv) any other non-administrative matter related to the complaint.

(b) During deliberations, committee members may privately consult with staff for the purpose of discussing legal, evidentiary, or procedural matters.

(5) Deliberations shall continue until they are concluded or continued to another date and time:

(a) at the direction of the chair, subject to JR6-2-302; or

(b) upon a motion approved by a majority of the committee members.

Section 27. **JR6-4-305** is repealed and reenacted to read:

JR6-4-305. Vote on Allegations and Recommendations -- Public Meeting -- Standards -- Reconsideration.

(1) After conclusion of the deliberations, the committee shall meet in public and, for each allegation reviewed by the committee, vote on whether the allegation is:

(a) proven by clear and convincing evidence; or

(b) not proven.

(2) For any count that has been voted as proven, the committee shall, by a motion approved by a majority of the members of the committee, recommend one or more of the

1024 following actions:

1025 (a) censure;

1026 (b) expulsion;

1027 (c) denial or limitation of any right, power, or privilege of the respondent, if, under the

1028 Utah Constitution, the Senate or House may impose that denial or limitation, and if the

1029 violation bears upon the exercise or holding of any right, power, or privilege; or

1030 (d) any other action that the committee determines is appropriate.

1031 (3) Votes shall be taken by verbal roll call and each member's vote shall be recorded.

1032 (4) A count is not considered to be proven unless a majority of the committee votes

1033 that the count is proven.

1034 (5) The committee, by a motion for reconsideration that is approved by a majority of

1035 the committee, may reconsider and hold a new vote provided that:

1036 (a) a motion to reconsider a vote on whether an allegation was proven or not proven

1037 may only be made by a member of the committee who voted that the allegation was not proven;

1038 and

1039 (b) a motion to reconsider a vote recommending an action against the respondent may

1040 only be made by a member of the committee who voted against the recommendation.

1041 (6) A count that is not voted as "proven" by a majority of the members of the

1042 committee is dismissed.

1043 (7) The committee may close the meeting for the purposes of further deliberations,

1044 subject to the requirements of JR6-4-304:

1045 (a) at the direction of the chair, subject to override by the committee as provided

1046 JR6-2-302; or

1047 (b) upon a motion approved by a majority of the members of the committee.

1048 (8) After a final vote has been cast on each allegation and recommendation, the

1049 committee shall prepare the finding and order as provided in JR6-4-306.

1050 Section 28. **JR6-4-306** is repealed and reenacted to read:

1051 **JR6-4-306. Finding and Order.**

1052 (1) (a) If the committee determines that no allegations in the complaint were proved,

1053 the committee shall prepare a finding and order that:

1054 (i) lists the name of each complainant;

1055 (ii) lists the name of the respondent;
1056 (iii) states the date of the finding and order;
1057 (iv) for each allegation contained in the complaint;
1058 (A) provides a reference to the code of conduct or criminal provision alleged to have
1059 been violated; and
1060 (B) states the number and names of committee members voting that the allegation was
1061 proved and the number and names of committee members voting that the allegation was not
1062 proved;
1063 (v) order that the complaint is dismissed because no allegations in the complaint were
1064 found to have been proved;
1065 (vi) provide any general statement that is adopted for inclusion in the recommendation
1066 by a majority of the committee members; and
1067 (vii) states the name of each committee member.
1068 (b) Each committee member shall sign the finding and order.
1069 (2) (a) If the committee determines that one or more allegations in the complaint were
1070 proved, the committee shall issue a finding and order that:
1071 (i) lists the name of each complainant;
1072 (ii) lists the name of the respondent;
1073 (iii) states the date of the finding and order;
1074 (iv) for each allegation contained in the complaint;
1075 (A) provides a reference to the code of conduct or criminal provision alleged to have
1076 been violated;
1077 (B) states the number and names of committee members voting that the allegation was
1078 proved and the number and names of committee members voting that the allegation was not
1079 proved;
1080 (C) if the allegation was not found not to have been proven, orders that the allegation
1081 be dismissed; and
1082 (D) if the allegation was found to have been proven, contains:
1083 (I) a description of any actions that the committee recommended be taken;
1084 (II) the number and names of committee members voting in favor of each
1085 recommendation and the number and names of committee members voting against each

1086 recommendation;
1087 (III) at the option of those members voting in favor of a recommendation, a statement
1088 by one or all of those members stating the reasons for making the recommendation; and
1089 (IV) at the option of those members against a recommendation, a statement by one or
1090 all of those members stating the reasons for opposing the recommendation;
1091 (v) contains any general statement that is adopted for inclusion in the finding and order
1092 by a majority of the committee members;
1093 (vi) contains a statement directing that the finding be delivered to:
1094 (A) for the Senate Ethics Committee, to the president of the Senate, the Senate
1095 majority leader, and the Senate minority leader; or
1096 (B) for the House Ethics Committee, to the speaker of the House, the House majority
1097 leader, and the House minority leader; and
1098 (vii) states the name of each committee member.
1099 (b) Each committee member shall sign the finding and order.
1100 (3) A copy of the finding and order shall be made publicly available.
1101 (4) A written copy of the finding and order shall be provided to:
1102 (a) the respondent;
1103 (b) the first complainant named on the complaint; and
1104 (c) any individuals required to receive a copy as stated in the finding and order.
1105 **Section 29. Repealer.**
1106 This resolution repeals:
1107 **JR6-4-205, Rights of the Respondent.**
1108 **JR6-4-206, Record.**
1109 **JR6-4-207, Process for Making a Decision -- Remedies -- Publication of Decision.**
1110 **JR6-4-307, Disciplinary Hearing Process -- Phase 1, Adjudication Phase.**
1111 **JR6-4-308, Disciplinary Hearing Process -- Phase II, Penalty Phase -- Remedies.**
1112 **JR6-4-309, Announcement of Decision.**
1113 **JR6-4-310, Records of Disciplinary Hearing.**